

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

NOVEMBER 18, 1999

IN RE:

**BELLSOUTH TELECOMMUNICATIONS, INC.
TARIFF FILING TO OFFER CONTRACT
SERVICE ARRANGEMENT (TN 98-3852-00)**

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**DOCKET NO.
99-00102**

**ORDER GRANTING APPROVAL OF BELLSOUTH
CONTRACT SERVICE ARRANGEMENT (TN 98-3852-00)**

This matter came before the Tennessee Regulatory Authority ("Authority") on the tariff filing of BellSouth Telecommunications, Inc. ("BellSouth") for approval to offer Contract Service Arrangement No. TN 98-3852-00 ("CSA"). BellSouth filed Tariff No. 99-00102 on February 12, 1999, with a proposed effective date of March 15, 1999. The Directors of the Authority considered this matter at the regularly scheduled Authority Conference held on March 2, 1999, and unanimously suspended the tariff until March 17, 1999, to allow time for additional review.

The Directors of the Authority next considered this matter at the regularly scheduled Authority Conference held on March 16, 1999. Based upon careful consideration of the tariff filing and the attachments thereto, the Authority finds and concludes the following:

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1. The purpose of this CSA is to provide Frame Relay Service to the customer identified in the filing. Frame Relay utilizes a special network, separate from the public switched network, for providing customers with high-speed data transport between multiple locations.

2. The term of this CSA is thirty-seven (37) months and it is designed to provide Frame Relay Service at an overall rate comparable to competitive alternatives. Through this CSA, BellSouth is offering the customer a waiver of non-recurring charges as a discount.

3. No parties sought to intervene in this docket.

Based upon the foregoing, as well as further concluding that certain consumers are getting lower rates in Tennessee¹ and that nothing in the CSA conflicts with the criteria for special contracts,² a majority of the Directors of the Authority determined that, in this docket, the CSA should be granted.³

¹ When making her motion to approve this CSA, Director Kyle agreed that "customers are better off with these agreements than they are under the general tariff...." Transcript of March 16, 1999 Authority Conference, p. 55.

² Director Greer did not find this CSA in conflict with either Tenn. Code Ann. § 65-4-122(a) or § 65-5-208(c), and stated further, that "Rule 1220-4-1-.07 impose[s] no restrictions, nor d[oes] it give us a road map. And I don't find any compelling reason to deny these CSAs based upon our rules." (*Id.*, pp. 50-51).


³ So as to be consistent with both his reasoning and his votes on November 17, 1998, January 12, 1999, January 19, 1999 and February 2, 1999 relative to similar CSAs, Chairman Malone voted no. Additionally, Chairman Malone opined that BellSouth's recent submissions of information were insufficient to persuade him that the CSAs appearing on this Conference's agenda were neither discriminatory nor acceptable vis-a-vis state contract law principles. He concluded that several of these pending CSAs offered a wide range of rates to customers which otherwise have no materially distinguishing characteristics; if such customers were determined to be "similarly situated" as a matter of law, such rate discrepancies could constitute unjust discrimination and be inconsistent with state law.

IT IS THEREFORE ORDERED THAT:

BellSouth Telecommunications, Inc. Tariff No. 99-00102, which seeks approval of Contract Service Arrangement No. TN 98-3852-00, is hereby granted.

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Melvin J. Malone, Chairman




H. Lynn Greer, Jr., Director



Sara Kyle, Director

ATTEST:



K. David Waddell, Executive Secretary

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* * * Chairman Malone voted against approval.